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SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND
PROTECTION OF MINORITIES

Forty-third session

SUMMARY RECORD OF THE 6th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 7 August 1991, at 3 p.m.

Chairman: Mr. JOINET

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The meeting was called to order at 3.05 p.m.

ELIMINATION OF RACIAL DISCRIMINATION (agenda item 5) (continued)

(a) MEASURES TO COMBAT RACISM AND RACIAL DISCRIMINATION AND THE ROLE OF THE SUB-COMMISSION (E/CN.4/Sub.2/1991/11 and 12; E/CN.4/Sub.2/1989/8 and Add.1; E/CN.4/1991/63 and Add.1)

(b) ADVERSE CONSEQUENCES FOR THE ENJOYMENT OF HUMAN RIGHTS OF POLITICAL, MILITARY, ECONOMIC AND OTHER FORMS OF ASSISTANCE GIVEN TO THE RACIST AND COLONIALIST REGIME OF SOUTH AFRICA (E/CN.4/Sub.2/1991/13 and Add.1)

1. Mrs. ATTAH, recalling that one of the main tasks of the Commission on Human Rights and its Sub-Commission was the elimination of racial prejudice, racism and racial discrimination, said that in many parts of the world there was a new upsurge of racism accompanied by manifestations of prejudice, discrimination, intolerance and xenophobia directed at ethnic, national, religious and linguistic minorities as well as indigenous people, migrant workers and other vulnerable groups. She welcomed the Secretary-General's recommendation (E/CN.4/Sub.2/1991/11) that those new phenomena should be the subject of an in-depth study. As the Special Rapporteur, Mr. Eide had observed in his study on the achievements made and obstacles encountered during the Decades to Combat Racism and Racial Discrimination (E/CN.4/Sub.2/1989/8 and Add.1), indigenous peoples suffered discrimination in all aspects of their lives. That underlined the importance of the draft universal declaration of indigenous rights at present being prepared by the Working Group on Indigenous Populations, which it was hoped would be adopted by 1993, the International Year for the World's Indigenous Peoples.

2. Although she welcomed the scheduled joint meeting between the Committee on the Elimination of Racial Discrimination and the Sub-Commission, as it would allow experts from both bodies to exchange views on the best ways to combat racism and racial discrimination, she believed it was still too early at the present stage to consider institutionalizing such meetings.

3. With Reference to agenda item 5 (b), the repeal by the minority regime in South Africa of the four laws making up the instruments of apartheid had not in any way restored to black South Africans the rights which the system of apartheid had denied them since its institutionalization in 1948. The black majority was still without the right to vote, the inequitable education system had not been replaced, the pattern of economic relationships between the various racial groups, which excluded the majority from participating in the exploitation of 87 per cent of all land in South Africa, remained unredressed, over 30,000 political exiles were still waiting to return to their country and 2,000 political prisoners were still incarcerated on account of their opposition to the system of apartheid. Moreover, the regime was still steeped in violence, as was evident from the continued townships violence and the sordid incident of Inkathagate. Such fundamental vestiges of apartheid called into question the advisability of lifting the sanctions imposed on South Africa by the international community. It was not evident, as some affirmed, that black South Africans would be the substantial beneficiaries of any improvements

that might accrue as a result of lifting sanctions. Furthermore, the white majority, confident of Western support, might now become more complacent and plunge South Africa into renewed chaos, thus setting back the democratic process. It was therefore imperative that the international community should unite in a new consensus to promote constitutional change in South Africa as the key to a democracy that would protect and promote the rights of all South Africans irrespective of race, ideology or religion. In the interim, there was a pressing need in South Africa for a transitional Government of national unity acceptable to the main political groups. In addition, as a confidence-building measure, the security system of South Africa should be completely overhauled. However, little progress would be made if the necessary climate for negotiation was not created. It was therefore the responsibility of the international community to ensure that all prisoners should be allowed to return home, an end put to violence in the townships and the redistribution of land ownership. It should not be forgotten that over the years white South Africans had been trained to regard blacks as inferiors. Sometimes outlooks were harder to change than a constitution enshrining white privileges. An effort would however have to be made by the Government with international sponsorship to re-educate white South Africans on the universality of humanity and the equality of all races. The welcome changes in the political and economic situation in South Africa during the past year should not distract attention from the impediments to enjoyment of basic human rights still faced by all South Africans. The international community should therefore not slacken its efforts to eradicate the apartheid system until victory had been achieved.

4. Consequently, since the United Nations had not lifted the sanctions imposed on South Africa, despite the decision by some Governments to do so unilaterally, the Sub-Commission should extend the mandate of the Special Rapporteur, Mr. Khalifa. Commending his highly informative report (E/CN.4/Sub.2/1991/13 and Add.1), she would like the next report to examine whether the lifting of sanctions would really help to improve the living conditions of the majority of South Africans, as claimed by the countries advocating such action.

5. Mrs. BAUTISTA said that the criticisms of the Sub-Commission made in the Commission on Human Rights merely served to emphasize the extent to which the former's mandate had expanded over the years as it had risen to the new human rights challenges by political, social, economic and cultural developments all over the world. Racism and racial discrimination still remained a major cause of human rights violations. Discrimination was rearing its head in the policies of the IMF, the World Bank and other financial institutions in their treatment of the debt problems of less developed countries, thus condemning those countries to economic poverty and political instability, both a cause of human rights violations. Racism was also evident in the imposition of unattainable conditions and standards for delivery of assistance to the less developed countries, in the inequality of wages paid to workers who are members of racial minorities as compared to other staff by certain companies and the reprehensible treatment meted out by immigration officials to travellers or workers from developing countries.

6. Racial prejudice was also the cause of exploitation of migrant workers, who were reduced to a state of virtual slavery and denied their basic human rights to life, dignity, freedom, just compensation and respect for their cultural integrity, and without any hope of protection from the host country. Most such workers came from developing countries whose natural resources, productivity and ability to provide a livelihood for their people had been destroyed by operations funded by developed countries in disregard of the principles of conservation and protection of the natural resources and maintenance of the ecological balance of such countries. It was high time for some thought to be given to the plight of migrant workers; the Working Group on Contemporary Forms of Slavery was to be commended for its work on the subject. It would also be useful to hear from the Commission on the Status of Women and the Committee on the Elimination of Racial Discrimination on the measures recommended to deal with the problem. Racial discrimination unquestionably helped to create a climate of violence, injustice and inequality; every effort should be made to eliminate it.

7. In his updated report (E/CN.4/Sub.2/1991/13 and Add.1), Mr. Khalifa showed that the economic sanctions imposed on South Africa had caused its Government to change its attitude and initiate reforms that had in turn prompted a number of countries to propose easing sanctions. However, apartheid was not yet eradicated and constitutional enactments did not guarantee equality and justice regardless of race, colour or creed. Even a constitution decreeing equality could become an instrument of injustice and oppression in the hands of wily and experienced manipulators. She highly commended the report and urged the Sub-Commission to encourage Mr. Khalifa to continue his work, providing him with every assistance required for the purpose. It was clear that the improvements in South Africa did not yet justify lifting the sanctions imposed on that country, where the instruments of oppression and injustice were still in place. The Sub-Commission ought to continue to monitor the human rights situation in South Africa and, in particular, to determine what actual improvements had been brought about in the political, economic, social and cultural status of the black majority. Only when blacks in South Africa were free to exercise their fundamental rights and freedoms could apartheid be said to be on its way out. Further efforts were therefore needed to reach that goal.

8. Mrs. KSENTINI thanked Mr. Khalifa for his report (E/CN.4/Sub.2/1991/13 and Add.1), which provided a clear and objective account of the changes taking place in South Africa. Mr. Khalifa's findings were in line with those of the OAU, other United Nations bodies and anti-apartheid organizations which had pointed to the need to continue to exert pressure on the apartheid regime until the complete and final elimination of a system justly described as a crime against humanity and condemned without appeal by history. The welcome measures adopted recently in South Africa gave hope that the Government of the country genuinely intended to dismantle apartheid; it seemed indeed that "statutory apartheid", as Mr. Khalifa put it, no longer existed. Whether that was a sign that a genuine and irreversible democratic process was taking place was open to question. It might be wondered whether the violence now rampant was being used as a delaying tactic to excuse the failure to achieve a proper climate for dialogue likely to initiate real change. The Inkathagate affair was a revealing indicator on several counts.

9. Although it was true that the abolition of such pillars of apartheid as the Group Areas Act and the Land Areas Act was a major and welcome step forward, the apartheid system put in place nearly half a century before could not be expected to vanish from one day to the next since it permeated every aspect of political, economic, social and cultural life in the country. A genuine period of transition, which, as the Secretary-General had said (E/CN.4/Sub.2/1991/11), was likely to be the most difficult and dangerous of all, would be what determined South Africa's future. At present, a de facto apartheid still existed with all that implied in the way of racial prejudice and a model of separate development that had served to marginalize the black population and exclude it from social advancement, development and power. As Mr. Khalifa had pointed out, democracy was not negotiable by non-democratic methods; everything would depend on those applying the constitutional precepts and the way they went about it. Lifting the sanctions imposed on South Africa would appear to be premature, for the first victories against apartheid had been made possible by the concerted efforts of the oppressed South African people and the international community. Pressure must therefore continue to be exerted on that country to ensure that the changes were made irreversible and did not end simply in a reshaping of apartheid to give it some degree of international legitimacy, acquiesced in by a number of Governments less interested, in the final analysis, in the abolition of apartheid than in the rehabilitation of a regime called on to play an important geostrategic role in the southern hemisphere.

10. She therefore urged the Sub-Commission to extend the mandate of the Special Rapporteur, who had made an outstanding contribution to mobilizing international action that would have a decisive effect during the transition period. She also asked the Sub-Commission to appeal to all States to maintain sanctions against South Africa. She suggested further that it should give thought to what further supervisory machinery might be introduced during the transition period in order to provide an objective assessment of the changing situation in South Africa and should consider in depth the question of compensation for and rehabilitation of the victims of apartheid. That task might be entrusted to Mr. van Boven, who had already had responsibility for the consideration of compensation for the victims of gross violations of human rights. A preliminary study might be made of the effects of apartheid on the oppressed people of South Africa, for example the effects of the violation of their fundamental rights and the various measures serving to expropriate and marginalize that people under segregationist legislation.

11. Mr. SADI said that Mr. Khalifa had as usual submitted a very interesting and useful report. His one regret was that the new developments in South Africa were perhaps not fully covered. It would also have been useful to know how the easing of sanctions - sanctions which had undeniably paved the way for the current changes - was likely to affect the process of democratization in South Africa. Much remained to be done; there were no grounds for lifting sanctions as long as 85 per cent of the South African population was unable to exercise all its political and civil rights. At the present critical stage, it was imperative that the Special Rapporteur should continue his work in order to determine the extent to which the positive effect of sanctions was irreversible. Although he remained hopeful and did not think that the South African Government could turn the clock back, there was so much at stake that, as Mr. Khalifa had said, a change of direction

could not be ruled out. The South African Government might well handle the new developments with the same skill it had earlier used to bypass international sanctions.

12. Be that as it may, the Sub-Commission should note the progress made in South Africa and the South African Government, for its part, should demonstrate its good faith by ratifying the international instruments on human rights. In conclusion, he hoped that Mr. Khalifa would be asked to continue his task, since it would be dangerous if the international community were to be seen to relax its vigilance.

13. The CHAIRMAN noted that five experts so far had asked for the mandate of the Special Rapporteur to be extended.

14. Mr. RIVAS POSADA said that Mr. Khalifa, as had been his wont for many years, had submitted an excellent and thoroughly praiseworthy document to the Sub-Commission.

15. Sanctions against South Africa remained a very important issue, particularly in view of recent events, which had changed the situation facing the Sub-Commission and other United Nations bodies. Although it was undeniable that the sanctions which the international community had imposed in a concerted effort to combat apartheid had worked, a distinction had nevertheless to be made between sanctions proper and other aspects of international strategy towards South Africa. Questions might well be asked on the impact those sanctions were having on a people already deep in economic and social crisis, as pointed out at the previous meeting by Mr. Treat and Mr. Eide. Some thought would have to be given to the extent to which sanctions were likely to aggravate conditions in South Africa and other countries. The discrimination still found in education, the economy, access to natural resources and employment in South Africa should of course be strongly condemned, but it also had to be understood that sanctions were likely to jeopardize the social and economic reconstruction of the country and that the demands of the majority could not be met until institutions had been completely overhauled. Without calling into question the rigour with which sanctions should be applied, he felt that certain facts could not be ignored.

16. Mr. van BOVEN said that the United Nations ought to take the lead in applying the policies and rules it proclaimed. A publication recently circulated by a grouping of United Nations staff had carried an article on the Swiss Bank Corporation, the new bank at the United Nations Office at Geneva, and apartheid. The article claimed that the Swiss Bank Corporation had been giving assistance to the apartheid regime for many years and had granted it sizeable loans. Although the Union Bank of Switzerland had the most active business links with South Africa, the Swiss Bank Corporation came second and had for many years been the principal Swiss bank trading in gold and the channel through which the largest producer of diamonds in the world, the De Beers group, had transferred its assets to Europe. The Swiss Bank Corporation also appeared on the list Mr. Khalifa had prepared of companies giving assistance to the South African regime. The Sub-Commission should be told why the United Nations was doing business with such a bank.

17. As to Mr. Khalifa's report, there was no doubt that international sanctions, and financial sanctions in particular, and those applied under the Comprehensive Sanctions Bill adopted by the United States Congress despite a presidential veto, had been a major factor in the decision of the South African authorities to change their policy. All those steps should therefore be encouraged. On the other hand, it was a matter for regret, as Mr. Treat had said at the previous meeting, that the terms of the agreement contained in the Minutes of Pretoria and relating to the release of political detainees and the return of political exiles to South Africa had not been fully implemented. Furthermore, although the South African authorities claimed to respect the law, incommunicado detention was still practised and impunity accorded to instigators of violence, including death squads whose crimes were apparently not subjected to the due processes of investigation and the law. A de facto apartheid was also continuing in South Africa in the economic and social sphere, for example in education and housing; provision should be made for the victims, including appropriate compensation as suggested by Mrs. Ksentini. Military sanctions, whose mandatory force was not in question, should not be eased until the Security Council had so decided. It would also be premature to ease economic and financial sanctions before it was certain that the present changes were irreversible. In the interests of freedom of opinion and expression he had never been a great believer in cultural sanctions, but United Nations policy on the subject appeared to be undergoing a change. The emphasis placed year after year on the need to support anti-apartheid institutions and associations inside and outside South Africa had been timely. To sum up, he was in favour of extending the mandate of the Special Rapporteur at the present stage, in order to avoid sending the South African authorities a signal that might be dangerous.

18. He found document E/CN.4/Sub.2/1991/12 extremely disappointing. An overview of current trends had been requested, but unfortunately very little information had come in to the Secretariat. That might have been because Governments were expected to respond to too many requests; they were already required to submit a large number of reports under mandatory instruments and were not always able to comply. It might be quicker and more effective if the investigators themselves were to collect the information they required, but that would raise the question of resources. It still remained to find a way out of the dilemma.

19. In connection with document E/CN.4/Sub.2/1991/11, like other members of the Sub-Commission, he was concerned at the re-emergence of certain forms of racism, which were clearly described in paragraphs 5 to 9. In paragraph 11, on monitoring apartheid in transition, the part to be played by the Sub-Commission, was touched on but no mention was made of which body, of all those that appeared competent to do so, would be responsible for such monitoring or if it would be conducted by several bodies working together. It was for the Under-Secretary-General for Human Rights, who was also the coordinator of the activities to be carried out under the Second Decade for Action to Combat Racism and Racial Discrimination, to make the choice known to the Sub-Commission. The second option would meet desire for greater collaboration among the bodies of the United Nations system. A wide variety of operational activities was also envisaged in the document; the question

again was who would carry them out. That decision was one for the trusteeship bodies, since the Sub-Commission could take action only through their intermediary.

20. With regard to the forthcoming meeting with the Committee on the Elimination of Racial Discrimination, on one of the subjects on the agenda, ways and means of coordinating action against racial discrimination, there were clear differences between the Sub-Commission and CERD: the Sub-Commission received information from various sources not available to CERD whereas the Committee, a body established by treaty, relied on governmental reports. The Committee also had responsibilities, which had so far remained in the background, relating to the right of petition under article 14 of the Convention. Although the Optional Protocol to the International Covenant on Civil and Political Rights had been ratified by many States, only 15 of those States had recognized the right of individuals to petition the State. He asked whether the Sub-Commission might not be able to take some action in that area.

21. Commenting on Mrs. Warzazi's position on Mr. Martenson's suggestion to consider possible conflict between the right to protection against racial discrimination and a number of other rights and freedoms, he noted her objection to the proposal on the ground that absolute priority should be given to protection against racial discrimination. Although he did not entirely disagree with that view, he pointed out that the right to freedom of opinion and expression posed a real problem in many legal systems. The conflict between the different rights had, moreover, been a point of contention during the drafting of the Convention, the only remaining trace of which was the somewhat vague wording in article 4: "with due regard to the principles embodied in the Universal Declaration of Human Rights and the rights expressly set forth in article 5 of this Convention". Although Mrs. Warzazi was right in many ways, he felt nevertheless that the issue deserved to be included among those to be discussed with CERD.

22. Mr. HELLER, on the subject of Mr. Khalifa's report, said that apartheid had been defined as a crime against humanity. It was useful to recall that at a time when there was so much talk of updating the law in the light of the new international political situation. In the case of South Africa, the right or duty to intervene on humanitarian grounds had never been invoked, and it had even been said that sanctions were counterproductive. Mr. Khalifa's updated report was therefore especially useful since it confirmed that, given current trends in South Africa, apartheid would not be abolished by decree, particularly since it ran so strongly through the country's economy. However, although vigilance was required, the positive changes that had been observed and were likely to be fostered by the new international political context should not be ignored. The ANC, for example, had a very active foreign policy, as had been borne out by the reception given to Nelson Mandela in Latin America. The United Nations should, at its highest level and not merely through one particular body or committee, keep a watchful eye on every aspect of the situation. Indeed, in his previous report, Mr. Khalifa had not only mentioned the question of sanctions but had also referred to the disturbing trend among a number of Central European democracies to establish or re-establish links with South Africa in contravention of United Nations resolutions. It would be useful for the Sub-Commission to have an indication from Mr. Khalifa of the way matters were shaping in that area.

23. With regard to efforts to combat racism and racial discrimination, although he too recognized the growing incidence of anti-Semitism, anti-Islamic activities, extreme nationalism and other trends, he joined Mr. Yimer in noting that that depressing fact was in glaring contrast to the instruments (international declarations, conventions and treaties) the international community could call on unprecedented numbers. Many studies had forecast that the 1990s would be a decade of migration of all kinds and of measures adopted by the countries concerned to protect themselves against such floods. It was thus clear that the stance the international community was taking on institutional matters was out of touch with reality. Perhaps what was needed was to try a new approach, to stop asking questions that gave only unsatisfactory answers, as Mr. van Boven had said, and instead to identify the situation in different countries and in different regions and the practical measures that might be taken by the States most concerned. Otherwise, there was a danger of remaining bogged down in generalizations and a mass of institutional measures with no impact on the real world.

24. Mr. GUISSE, referring to agenda item 5 (a), said that discrimination was becoming an increasingly serious problem; one political leader had even commented that noise and smells made it impossible to live beside immigrants, an insult whose gravity was enhanced by the fact that it was clearly provoked by racial considerations. There was today a trend towards a community approach to discrimination, an evil that despite the studies and approaches devoted to it was still intractable. The blight of racism and racial discrimination was growing skin colour and anthropological features were still a cause for rejection and a source of gross violations of human rights. Most victims were now immigrant workers, who, with their families, were subjected to all manner of harassment when they crossed frontiers. Freedom of movement was a principle flouted by those who had themselves instituted it and who were now talking of expulsion on a large scale. It was a very disturbing trend and deserved more detailed discussion. Countries were practising discrimination on grounds of skin colour alone; although the situation was most serious in South Africa where the practice had been institutionalized, matters elsewhere had reached a point where there was no longer any protection for migrants and national authorities were condoning practices followed by individuals. It had happened that immigrants arrested in the street were sent away, some practically naked, without even the papers they needed to live in their own countries. Shuttled from one country to another, there was no international rule they could call on for protection, especially when in the hands of frontier police, who operated virtually without supervision from national or international authorities. The legal vacuum thus created was one that had to be filled.

25. In its forthcoming deliberations, the Sub-Commission should appeal to everyone and in particular to the bodies specializing in the protection of human rights to bring the situation to an end. It should draw up relevant guidelines, since such practices had serious repercussions on all aspects of the lives of human beings, their education, health and development. The question of who should provide compensation for the harm done, those who had expelled them or those who had refused to take them in, was still open and came under the purview of the study on compensation for victims of discrimination. In conclusion, recent cases of gross racial discrimination included the statement by a South African court that the death sentence it had

passed on a mentally-handicapped black did not contravene the country's Constitution, and the fact that the same court had passed a death sentence on a young black under the age of 16. Such sentences would not have been passed had the accused been white.

26. Mr. TIAN said that agenda item 5 (b) continued to be a major subject of debate in the Sub-Commission, particularly at the present time when a number of industrial States were lifting sanctions against South Africa. Mr. Khalifa was to be thanked for his report and his verbal presentation, both of which were entirely convincing. That contribution, made on behalf of the Sub-Commission, would be a landmark in the history of the South African people. During the decades the United Nations had been in operation one of its most outstanding activities had been the fight against apartheid. South Africa was at present in a state of flux; in order to obtain a proper grasp of the situation the floor should be given more often to the African members of the Sub-Commission. The international community, for its part, should remain watchful and refrain from lifting sanctions. South Africa had for decades persisted in its policy of apartheid. Over 40,000 blacks in the country had only their strength of character to call on to confront the forces of the white minority, fighting like a beast at bay, clinging to apartheid and trying to sow disunity among blacks. Although, admittedly, major changes had taken place there was no assurance they would last. The Sub-Commission should remain watchful and Mr. Khalifa's next report would be most useful. The ultimate abolition of apartheid depended not only on the struggle of the South African people but also on the support given by the international community, of which Mr. Khalifa's report was a measure. For a long time, on the pretext of protecting the living standards of the South African people and their neighbours, the industrialized countries had sought to lift the sanctions against South Africa. Most of the international community, however, had not been deceived. One need only look at what such countries, which spoke out so loudly in defence of human rights, were doing to ensure abolition of apartheid. The list of enterprises collaborating with South Africa that had been appended to Mr. Khalifa's report was 202 pages long. It had been possible to delete only two and a half of those pages. The Sub-Commission should strive to ensure that the list did not even comprise a single page.

27. Mrs. KSENTINI said that non-discrimination was a very important principle which underlay the whole philosophy of human rights. Enshrined in the Charter, it also underlay international cooperation and many other international instruments both mandatory and otherwise and had inspired two decades of combat against racism. It was thus a rule of jus cogens, which admitted of no exemption. Unfortunately, it was a principle that in practice was violated every day. Such infringements came not only under the heading of apartheid but also of new forms of racism that were being encountered by some ethnic minorities, refugees, migrant workers and other groups. They were reaching intolerable proportions, and should be carefully monitored. She pointed in particular to the case of asylum seekers and migrant workers, especially those coming in great numbers to the West. Nationals of Arab or African countries were the most affected, beginning at airports where they had to queue in places set aside specially for them and were subjected to lengthy questioning during which they suffered the first assaults on their dignity and often the beginnings of a personal tragedy. That was the case, for

example, of "refugees in orbit", to quote the Office of the United Nations High Commissioner for Refugees, who were shuttled for weeks from one airport to another without finding shelter and were at risk of being deported to the very country from which they had fled, where they were likely to be persecuted. The principle that asylum seekers should not be expelled, in particular to countries where they were subject to persecution, was expressly stated in the conventions relating to refugees. The restrictive attitude to granting asylum that was increasingly prevalent in Western countries with regard to persons from the South ran counter to that principle, which was being flouted to the extent that there was talk of mass refoulement by means of procedures under discussion at the highest national level. Instead of taking steps to end such unacceptable practices, Governments frequently adopted a permissive attitude while political parties made an electoral platform out of the immigration question. Some of their statements had an undercurrent of latent racism and a number of politicians were whipping up racist feeling. Host countries should rather be taking forceful steps to stop the trend, in particular by action against the media, since there were limits to the right of expression, one being prohibition of discrimination, a mandatory rule of international law. She recommended that Mr. Joinet and Mr. Türk should consider the issue in the study on the right to freedom of opinion and expression for which they were Special Rapporteurs.

28. The previous year, in resolution 1990/2, the Sub-Commission had expressed great concern over the upsurge of racism. The Secretary-General had been requested to prepare an overview of the subject on the basis of replies to a questionnaire. Document E/CN.4/Sub.2/1991/12 had been the frustrating outcome since the absence of replies meant that the study had not been conducted. The request should be repeated and, whatever the outcome, the study should be carried out on the basis of other available information. It could well be conducted in conjunction with the Secretary-General's proposals contained in document E/CN.4/Sub.2/1991/11 on measures to combat racism and racial discrimination. She had a number of proposals relating to those measures, for example to strengthen coordination with United Nations bodies responsible for racial discrimination, to increase resources in order to provide better coordination in implementing the Second Decade to Combat Racial Discrimination, to strengthen coordination with the Committee on the Elimination of Racial Discrimination, which for its part might undertake a systematic review of the measures taken by States parties to apply the principle of non-discrimination and determine whether measures to integrate immigrants and prevent their marginalization had in fact been taken. CERD might also review court proceedings to identify cases of discrimination and look into the facilities afforded to victims (such as persons seeking asylum or those subjected to arbitrary expulsion despite having a residence permit), who had no means of initiating existing appeal procedures. On that point, she understood that the Centre for Human Rights had published a guide to the remedies available to victims, which should be disseminated as widely as possible. Other means of combating discrimination included seminars; not only should their number be increased, use should be made of their findings, which tended to have no follow-up. Efforts were needed to make standards known and accepted; she therefore welcomed the Convention on Protection of the Rights of Migrant Workers but considered that there was also a need to make sure its provisions were applied in practice. An attempt should also be made to solve the financial problems of the committees responsible for monitoring implementation,

such as CERD, and to promote a knowledge of the protection procedures established by those conventions, and more particularly the procedures provided in the Convention on the Elimination of All Forms of Racial Discrimination, namely the petition procedure set out in article 14. In conclusion, she drew attention to the part the Sub-Commission might play in the context of the World Conference and considered that attention should be concentrated on the latest types of racism. She further pointed out the part national and international non-governmental organizations might play; their efforts should be supported. She expressed frustration at the silence of the non-governmental organizations on that point.

29. The CHAIRMAN, referring to the lack of replies from Governments, recalled, as had been confirmed by the Secretariat, that in its resolution 1991/56 the Commission had in fact requested the Sub-Commission not to press Governments too hard for their views, since they were overwhelmed with such requests. As for the report on freedom of opinion, which he was writing in collaboration with Mr. Türk, it would in its second part deal with freedom of expression in the context of combating racism.

30. Mrs. KSENTINI said that even in the absence of replies the overview envisaged by the Secretary-General should be prepared and asked that it be based on reliable information without pressing Governments for replies.

31. Mr. DIACONU said that Mr. Khalifa's report and the various statements made confirmed the need to remain watchful in the case of South Africa. The favourable changes perceived should be encouraged, although admittedly many problems remained. The reports provided by Mr. Khalifa were therefore more than ever necessary.

32. It was not possible to compare, as Mr. Treat had done, the situation in South Africa with that in Eastern Europe. The only point in common was the inability of the countries concerned to solve overnight all the problems confronting them. It was imperative, whatever happened, to encourage all those seeking to build democratic societies in their countries.

33. There was a great deal of talk about nationalism, but more accuracy was needed in that regard. Neither General de Gaulle nor Jawaharlal Nehru had considered nationalism good or bad in itself; it was the use made of it that was crucial. Nationalism and its manifestations could not be condemned out of hand; condemnation should be reserved for those, whether a majority or minority used nationalism to justify domination, refused to recognize human rights, denied equal rights and had no respect for the history of others.

34. He concurred with Mr. Eide's suggestion that during the joint meeting with the Committee on the Elimination of Racial Discrimination there should be a discussion on how to take joint action against racial discrimination. It was incumbent on leading figures in the cultural, artistic and political worlds to take a stand against hate, since they had the ear of the general public. Understanding should be promoted as a cultural value and a refusal to act or behave in a manner that fed hatred should be encouraged. Refugees and migrant workers posed a problem that would become increasingly acute; the Sub-Commission should keep the subject on its agenda, for detailed discussion in order to propose to States ways of preventing the phenomena of discrimination and xenophobia.

35. Mr. PHEKO (Pan Africanist Congress of Azania), referring to articles 2 and 3 of the Universal Declaration of Human Rights, recalled that under the terms of the Declaration everyone had the right to life, liberty and security of person. That right, which could not be restricted to non-Africans or non-Arabs, was being violated with impunity every day in South Africa. The loss of life was on a genocidal scale. The insensitivity of many countries was demonstrated by their enthusiasm to reward Mr. De Klerk for superficial changes. During the current year alone there had been an estimated 15 deaths a day in South Africa.

36. The violence in South Africa was projected as black-on-black violence. Although that was sometimes so, it was no less true that millions of dollars had been deployed to divide the Africans of Azania through the action of controlled media who canonized the so-called "moderates" and demonized the so-called "radicals". It was also true that 90 per cent of the violence in South Africa came from Mr. De Klerk's regime. It was a conspiracy to reduce the African population and frustrate democracy. A genocide plot had been decided at a secret meeting in 1985, when a leader of the regime was alleged to have made a number of ominous remarks, but it had been in the air even before that, as evidenced by the activities of the Broederbond, a secret white organization in South Africa, and described in Broederbond, published by the Paddington Press, New York, in 1981. The conspiracy had at first been taken to be a mere rumour, but there was now circumstantial evidence to prove that the regime was systematically endeavouring to wipe out the blacks to ensure white supremacy in South Africa - by female sterilization, by assassination of members of the Pan Africanist Congress, by engineered road accidents as in the case of Jafta Masemola and even, according to an affidavit by Mr. Bezuidenhout, a former security agent of the regime, by an attempt to spread the AIDS virus in the townships of Soweto and East Rand. The Pan Africanist Congress of Azania had been mediating between Inkatha and the ANC; if there was violence between those two bodies it was largely due to the regime's plot to divide Africans not only inside Azania but also throughout the African continent using the most shameless strategems falsely to put them against each other.

37. It was a disturbing fact that racist South Africa was being favoured in the world today. It had over 200 atomic bombs and had nuclear capability, but all it was being asked to do was to sign the Treaty on the Non-Proliferation of Nuclear Weapons. Third World countries on the other hand that had tried to develop their nuclear technologies had been blackmailed, and a country like Iraq had been bombed out of the twentieth century and bled by reparations. South Africa had been able with impunity to destroy property worth billions of dollars in neighbouring African States. The Pan Africanist Congress viewed those developments with consternation in the certainty that South Africa despite the obligation to use its nuclear capacity for peaceful purposes only would not hesitate to do otherwise. South Africa was a threat not only to Azania and the frontline States but also to the rest of Africa. That danger was greater today than it had been 20 years ago. Vigilance, eternal vigilance, was the price of liberty.

The meeting rose at 6.05 p.m.